

ACT# 2009-473

1 HB323
2 106366-2
3 By Representative Grimes (N & P)
4 RFD: Montgomery County Legislation
5 First Read: 03-FEB-09



1
2 ENROLLED, An Act,

3 Relating to the Employees' Retirement System of the
4 City of Montgomery; to combine the provisions of Act No. 756
5 of the 1975 Special Session (Acts 1975, p. 1528), as amended
6 by Act 2005-290, 2005 Special Session (Acts 2005, p. 522)
7 changing the retirement age and creditable service
8 requirements and formula for benefits for certain employees
9 who become members of the system on or after October 1, 2005,
10 providing for an option for existing members on October 1,
11 2005, either continuing under the present system or begin
12 participation under a new plan, providing further for the
13 administration of the system by increasing the membership of
14 the Board of Trustees of the system; to redefine certain terms
15 to provide further for the certain creditable service and
16 benefits under the system; and to allow for participation in
17 the Employees' Retirement System of the City of Montgomery and
18 Act 2006-328, 2006 Regular Session (Acts 2006, p. 707)
19 relating to removing or revising provisions referable to and
20 otherwise needed in respect of the participation in the system
21 of employees of the Water Works and Sanitary Sewer Board of
22 the City of Montgomery in light of the election of the board
23 to become a participating employer in the Employees'
24 Retirement System of Alabama and its employees having become
25 members. To provide further for the Employees' Retirement

1 System of the City of Montgomery by adding provisions with
2 respect to the Employee Retention Incentive Program.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Definitions. The following words and
5 phrases as used in this act, unless a different meaning is
6 plainly required by the context, shall have the following
7 meanings:

8 (1) "System" shall mean the Employees' Retirement
9 System of the City of Montgomery, as defined in Section 2 of
10 this act.

11 (2) "City" shall mean the City of Montgomery,
12 Alabama, with respect to its employees, and any board or
13 boards of the city now existing or hereafter created and duly
14 authorized by the council to participate in the system with
15 respect to its employees.

16 (3) "Council" shall mean the duly elected Council
17 Members of the City (hereinafter sometimes referred to as
18 Councilors).

19 (4) "Board" shall mean the board of trustees of the
20 system provided for in Section 5(B) of this act to administer
21 the system, but shall not include the investment trustee.

22 (5) "Medical Board" shall mean the board of
23 physicians provided for in Section 5(D) of this act.

24 (6) "Employee" shall mean any regular and permanent
25 officer or employee of the city, whether full time or part

1 time, including elected or appointed officials, the Mayor and
2 councilors, and the regular employees of any board or
3 commission of the City other than the Water Works and Sanitary
4 Sewer Board, and any person or persons employed by the city
5 and performing the duties of a regular employee in the service
6 of the city, but shall not include anyone who is paid on a fee
7 or commission basis.

8 (7) "Member" shall mean any person included in the
9 membership of the system as provided in Section 3 of this act.

10 (8) "Service" shall mean service in the employment
11 of and paid for by the city.

12 (9) "Membership service" shall mean service as a
13 member for which credit is allowable as provided in Section 4,
14 subsection (1) of this act.

15 (10) "Creditable service" shall mean total
16 membership service plus any prior service allowed under this
17 act.

18 (11) "Retirement allowance" shall mean annual
19 payments, payable in monthly installments, continuing to the
20 last payment prior to death.

21 (12) "Beneficiary" shall mean any person in receipt
22 of a retirement allowance or other benefit as provided by the
23 system.

24 (13) "Accumulated contributions" shall mean the sum
25 of the balance to a member's credit in the annuity savings

1 account as of December 31, 1968, plus all the amounts deducted
2 thereafter from his compensation and credited to his
3 individual account.

4 (14) "Earnable compensation" shall mean the full
5 rate of compensation that would be payable to a member if he
6 worked the full normal working time. Earnable compensation
7 shall not include overtime pay. In cases where compensation
8 includes maintenance, the board shall fix the value of the
9 part of compensation not paid in money. Compensation in excess
10 of \$200,000.00 shall be disregarded for all purposes under
11 this act. Such amount shall be adjusted at the same time and
12 in such manner as permitted under Section 415(d) of the
13 Internal Revenue Code.

14 (15) "Average final compensation" shall mean the
15 earnable compensation of a member during the highest 12
16 consecutive months of the 5-year period immediately preceding
17 his retirement date. If at any time prior to or during the
18 5-year period immediately preceding his retirement date, a
19 member served in a part-time capacity, average final
20 compensation, creditable service, and the retirement allowance
21 shall be determined in accordance with the rules and
22 regulations adopted by the board.

23 (16) "Equivalent actuarial value" shall mean equal
24 value when computed at regular interest on the basis of the
25 tables last adopted by the board.

1 (17) "Operative date" shall mean the date the system
2 began operation as provided in Section 2 of this act.

3 (18) "Investment Trustee" shall mean each of such
4 banks or other recognized advisory service or services that
5 the board of trustees selects. Each investment trustee shall
6 have the powers and duties prescribed by Section 5(A). The
7 board of trustees may terminate the services of any investment
8 trustee upon thirty (30) days' written notice to such trustee,
9 and each trustee may likewise terminate its services upon
10 thirty (30) days' written notice to the board. After receipt
11 of such notice by either party the investment trustee
12 concerned shall make an accounting within forty-five (45) days
13 of the receipt of said notice.

14 (19) "ERIP Option" shall mean the optional election
15 available to a Member pursuant to Section 15.

16 (20) "ERIP Calculation Date" shall mean the first
17 day of the ERIP Election Period.

18 (21) "ERIP Election Period" shall mean the period of
19 exactly one (1), two (2) or three (3) years ending on a
20 Member's actual retirement date. The ERIP Election Period
21 shall include only years actually worked by the Member after
22 the ERIP Eligibility Date plus any buy-back years for military
23 service.

24 (22) "ERIP Eligibility Date" shall mean the date a
25 Member is credited with twenty (20) or more years of

1 Creditable Service or twenty-five (25) or more years of
2 Creditable Service, as applicable pursuant to Section 6(1),
3 including buy-back years purchased prior to January 1, 2005,
4 but excluding buy-back years purchased on or after January 1,
5 2005 or years earned prior to a Member's rehire date unless
6 membership in the System was retained until such rehire date.

7 (23) The masculine pronoun shall include the
8 feminine pronoun.

9 Section 2. Name and Operative Date.

10 The board shall be responsible for the management of
11 the system for the purpose of providing retirement allowances
12 and other benefits under the provisions of this act for
13 employees of the city. The system shall be a continuation of
14 the retirement system established under Ordinance No. 16-59,
15 as amended prior to the effective date of this act, as the
16 Employees' Retirement System of the City of Montgomery, under
17 which name all of its business shall continue to be
18 transacted, all of its funds shall continue to be invested,
19 all warrants for money shall continue to be drawn and all
20 payments made, and all of its cash and securities and other
21 property shall continue to be held as hereinafter provided.
22 The operative date of the system shall continue to be the
23 first day of June, 1959.

24 Section 3. Membership.

1 (1) Any person who is a member of the system at the
2 time of the adoption of this act shall be a member of the
3 system and in addition any person becoming an employee
4 thereafter shall become a member of the system as a condition
5 of his employment. Provided however, that any such person who
6 shall have become a member of and participate in the
7 retirement program of the Employees Retirement System of the
8 State of Alabama owing to the election of the Water Works and
9 Sanitary Sewer Board of the City to become a Participating
10 Employer respecting said State retirement program shall
11 thereafter cease to be a member of the system. Any employee
12 who is elected as a member of the council and who is a member
13 of the system at the time of such election may elect to
14 terminate his membership in the system at the time of his
15 election by filing with the board on a form prescribed by the
16 board a notice of his election to terminate his membership in
17 the system, and a duly executed ~~waive~~ waiver of all
18 prospective benefits which would otherwise inure to him as a
19 member, such notice to be filed not later than the day on
20 which he assumes his duties as a member of the city council.
21 Any person who is elected as a member of the city council and
22 who is not a member at the time of his election shall become a
23 member unless he elects in the manner set forth above not to
24 become a member.

1 (2) Any employee whose membership in the system is
2 contingent on his own election and who elects not to become a
3 member may thereafter apply for and be admitted to membership.

4 (3) It shall be the duty of the city's Finance
5 Department, and the corresponding departments of the city's
6 Airport Authority, to submit to the board a statement showing
7 the name, title, compensation, duties, date of birth and
8 length of service of each member, and such information
9 regarding other employees as the board may require, and on the
10 basis thereof the board shall classify each member in one of
11 the following groups:

12 Group I. General municipal employees.

13 Group I-A. Airport Employees.

14 Group II. Members of the Fire Department and the
15 Police Department of the city, trained in firefighting or
16 police work and actively engaged in such work or subject to
17 call for such services.

18 Upon written request, the board shall certify to the
19 member the group in which he is placed and the date of his
20 admission to membership therein. When the duties of a member
21 so require, the board may classify him in another group and
22 shall certify to him the group to which he has been
23 reclassified, except that no member having 15 or more years of
24 service in one class may be so reclassified.

1 (4) Should any member be absent from service more
2 than five consecutive years, or should he withdraw his
3 accumulated contributions or die or retire under the provision
4 of this act, he shall thereupon cease to be a member.

5 Section 4. Service Creditable.

6 (1) Each member shall receive membership service
7 credit for all service rendered while a member of the system
8 since he became a member, or since he last became a member in
9 the event of a break in his membership, on account of which
10 contributions are made by the member.

11 (2) Each member claiming prior service credit shall
12 file a detailed statement of all service rendered by him prior
13 to such date for which he is eligible to claim prior service
14 credit, and of such other facts as the board may require for
15 the proper operation of the system. The board shall fix and
16 determine by appropriate rules and regulations how much
17 service, if any, in any year is equivalent to a year of
18 service, but in no case shall more than one year of service be
19 creditable for all service in one calendar year, nor shall the
20 board allow credit as service for any period of more than one
21 month's duration during which the employee was absent without
22 pay. The board shall verify, as soon as practicable after the
23 filing of such statements of service, the service therein
24 claimed. Except as expressly limited herein, a member claiming
25 prior service credit must claim all eligible prior service.

1 (3) Creditable service at retirement on which the
2 retirement allowance of a member shall be based shall consist
3 of his total membership service plus any prior service
4 verified by the board pursuant to subsection (2) above.

5 (4) Anything in this act to the contrary
6 notwithstanding, credit for any period of absence due to
7 compulsory service in the armed forces of the United States
8 shall be allowed as service credit as if such service had been
9 service as an employee of the city, provided the employee
10 returns to city service within ninety days after becoming
11 entitled to an honorable discharge from the armed forces or
12 within ninety days after hospitalization continuing after
13 discharge for a period of not more than one year; and,
14 provided further that the employee contributes and pays to the
15 system a sum equal to the total contribution which he would
16 have made had he remained in service during such leave less
17 any amount actually contributed by the member for such period,
18 as determined in accordance with rules and regulations adopted
19 by the board. Anything herein to the contrary notwithstanding,
20 credit for military leave shall be granted in compliance with
21 all applicable federal laws, rules and regulations.

22 (5) Notwithstanding any other provisions of this
23 act, an active and contributing member with prior employment
24 with the State of Alabama as a state employee or as an
25 employee of the public education system under the State Board

1 of Education or an institution of higher education may
2 purchase up to four years of creditable service in the system
3 for the prior employment with the State of Alabama if the
4 member claiming the prior employment credit has at least 10
5 years of contributing membership service credit, exclusive of
6 military service credit, in the system and the member pays to
7 the system prior to his date of retirement from active service
8 a sum, for each year or partial year of service purchased,
9 equal to the total contribution which he and the city would
10 have made during the period for which he is claiming credit.
11 The total contribution will be based on the annual income of
12 the member at the time of payment and the city's actuarial
13 rate at the time of payment. A member is prohibited from
14 purchasing credit under the aforementioned provisions for any
15 prior service for which he or she has received credit toward a
16 benefit from any other public retirement system except the
17 federal Social Security program. The member has the
18 responsibility of providing a statement from the Retirement
19 Systems of Alabama that the member is not eligible for any
20 state retirement benefits for the prior employment for which
21 he or she is purchasing service credit and for wage statements
22 covering the time period of the service credit being
23 purchased.

24 (6) Any employee whose membership in the system was
25 contingent upon his own election and who elected not to become

1 a member, may apply for and be admitted to membership with all
2 prior service credit at any time, provided said employee pays
3 to the system a sum equal to the total contributions which he
4 would have made as a member during his prior service.

5 (7) Any member of the system, who at one time worked
6 as a nonmember may receive credit for prior service and for
7 the years worked as a nonmember, provided said member pays to
8 the system, a sum equal to the total contributions which he
9 would have made as a member during his prior service.

10 (8) Any member who ceased to be a member as a result
11 of being absent from service for more than five consecutive
12 years or as a result of withdrawing his accumulated
13 contributions and thereafter becomes a contributing member
14 shall be allowed credit for such previous service, provided he
15 pays the system a sum equal to the total contribution he has
16 withdrawn.

17 (9) Any law or part of law relating to the payment
18 of interest on contributions as a prerequisite to the granting
19 of credit for prior service under the system notwithstanding,
20 any eligible employee, member or retired member who claims
21 such prior service (including prior service claimed under
22 subsections (6), (7), and (8) but excluding prior service
23 claimed under subsections (4) and (5)) shall pay into the
24 system in addition to the contributions required, interest of
25 eight percent, compounded annually, on such contributions, as

1 a prerequisite to the granting of said service credit.

2 Interest shall be calculated in accordance with the rules and
3 regulations established by the board.

4 (10) Anything in this act to the contrary
5 notwithstanding, the employer cost for the granting of any
6 service credit granted under the provisions of this act shall
7 become the continuing liability of the employer for whom such
8 service was rendered.

9 Section 5. Administration.

10 A. Investment Trustee.

11 Each investment trustee shall be a state or
12 federally chartered bank with not less than \$500,000,000 in
13 assets, bonded for not less than the amount of the board's
14 assets held from time to time, and shall have the following
15 powers and duties (but no other):

16 (1) To retain inventoried assets delivered to it by
17 the board so long as such retention appears advisable,
18 including the right to retain investments previously made in
19 its stock, if any, by the board.

20 (2) To sell, exchange, assign, transfer and convey
21 any security or property, real or personal (whether in the
22 original inventory or acquired by purchase or otherwise), at
23 public or private sale, at such time and price and upon such
24 terms and conditions (including credit) as it may determine.

1 (3) To invest and reinvest in such stocks, bonds,
2 and other securities and properties as it may deem advisable,
3 including preferred stocks, common stocks, debentures, and
4 unsecured obligations, undivided interests, interests in
5 investment trusts, mutual funds, legal and discretionary
6 common trust funds, and leases and property either inside or
7 outside of Alabama.

8 (4) To register and carry any property in its own
9 name or in the name of its nominee or to hold it unregistered
10 but without thereby increasing or decreasing its liability as
11 fiduciary.

12 (5) To vote in person or by proxy any stock or
13 securities held and to grant such proxies and powers of
14 attorney to such person or persons as it may deem proper. The
15 board shall have the power to vote in person or by proxy any
16 stock in each investment trustee.

17 (6) To consent to and participate in any plan for
18 the liquidation, reorganization, consolidation or merger of
19 any corporation, any stock or security of which is held.

20 (7) To receive reasonable compensation for its
21 services either out of the fund administered by each
22 investment trustee or from the board, the amount or method of
23 computation and payment to be agreed upon between the board
24 and each investment trustee.

1 (8) To receive funds or appropriations from the
2 board or from the city to be held and administered hereunder,
3 and to have custody of all investments delivered to it,
4 subject to the directions of the board.

5 (9) To pay to the board on duly-authorized vouchers
6 such funds as may be required to make current monthly payments
7 of retirement allowances and expenses.

8 (10) To invest and manage all assets delivered to
9 the trustee by the board and/or city in a professional and
10 prudent manner and exercising due care.

11 The powers and duties of each investment trustee
12 shall apply from and after its selection by the board and
13 delivery of assets to it, and no investment trustee shall have
14 any duties in reference to or any liabilities for any acts or
15 failures to act which occurred prior thereto.

16 B. Board of Trustees.

17 (1) Except for the powers and duties prescribed for
18 the investment trustee, the general administration and the
19 responsibility for the proper operation of the system and for
20 making effective the provisions of this act are hereby vested
21 in the board of trustees of the system.

22 (2) The board shall consist of nine voting trustees
23 as follows: one shall be a member employee in the Police
24 Department, one shall be a member employee in the Fire
25 Department, one shall be a member employee classified as a

1 general municipal employee, three may be either active or
2 retired members of the retirement system, one shall be a
3 retired member of the retirement system, and two may or may
4 not be members of the system. All previously appointed
5 trustees serving on October 1, 2005, shall continue to serve
6 until the expiration of their then respective current terms,
7 with the exception of any trustee who is an employee of the
8 Water Works and Sanitary Sewer Board, whose term of office
9 shall in all events expire and determine on the day after the
10 date of becoming law at the 2006 Regular Session of the
11 Legislature of Alabama of that certain bill introduced thereat
12 to be entitled an act to amend Act No. 2005-290 enacted at the
13 2005 Special Session of the Legislature of Alabama so as to
14 make certain changes thereto in order to accommodate and
15 reflect the election of the Water Works and Sanitary Sewer
16 Board to become a participating employer with the Employees'
17 Retirement System of Alabama, and thereafter their successors
18 shall be appointed for four-year terms, except that the
19 immediate successors to those previously appointed trustees
20 who are serving two-year terms, shall be appointed for and
21 serve for terms of three years each; and, thereafter, the
22 terms of office of all subsequent trustees so appointed shall
23 be four years.

1 (3) If a vacancy occurs in the office of a trustee,
2 the vacancy shall be filled for the unexpired term in the same
3 manner as the office was previously filled.

4 (4) The trustees as such shall serve without
5 compensation.

6 (5) Each trustee shall, within ten days after his
7 appointment, take an oath of office.

8 (6) Each trustee shall be entitled to one vote. Five
9 trustees shall constitute a quorum and a vote of a majority of
10 the trustees present at the meeting where a quorum is present
11 shall be the act of the board.

12 (7) Subject to the limitations of this act, the
13 board shall, from time to time, establish rules and
14 regulations for the administration of the system and for the
15 transaction of its business, including uniform standards for
16 determining who are employees within the meaning of this act.

17 (8) The board shall elect from its membership a
18 chairman and a vice chairman, and shall appoint a secretary
19 who may or may not be a member of the board. The board may
20 employ personnel for secretarial and other service as shall be
21 required.

22 (9) The board shall keep in convenient form such
23 data as shall be necessary for actuarial valuation of the
24 system and for checking the experience of the system.

1 (10) The board shall keep a record of all of its
2 proceedings, which shall be open to public inspection. It
3 shall submit to the council, annually, a report showing the
4 fiscal transactions of the system for the preceding year, the
5 amount of the accumulated cash and securities of the system,
6 and the last balance sheet indicating the financial condition
7 of the system as shown by an actuarial valuation of the assets
8 and liabilities of the system.

9 C. Legal Adviser

10 The City Attorney, or his designee, shall be the
11 legal adviser of the board.

12 D. Medical Board

13 The board shall designate a Medical Board of one,
14 two or three physicians who are not eligible to participate in
15 the system. The Medical Board shall arrange for and pass upon
16 all medical examinations required under the provisions of this
17 act, shall investigate all essential statements and
18 certificates by or on behalf of a member in connection with
19 application for disability retirement, and shall report in
20 writing to the board its conclusions and recommendations upon
21 all the matters referred to it.

22 E. Duties of Actuary

23 (1) The board shall designate an actuary who shall
24 be the technical adviser of the board on matters regarding the

1 operation of the system and who shall perform such other
2 duties as are required in connection therewith.

3 (2) The board shall certify from time to time the
4 rates of contribution payable by the city and any other
5 participating employers under the provisions of this act, and
6 shall adopt for the system from time to time such mortality,
7 service and other tables as shall be deemed necessary, and on
8 the basis of such tables and the interest rate adopted by the
9 board for the purpose of determining the city's and other
10 participating employers' contributions to the system, the
11 actuary shall make annually an actuarial valuation of the
12 assets and liabilities of the system. At least once in each
13 five-year period the board shall cause an actuarial
14 investigation to be made into the mortality, service and
15 compensation experience of the members and beneficiaries of
16 the system.

17 Section 6. Benefits.

18 (1) Service Retirement Allowance.

19 (a) The minimum service retirement age shall be as
20 follows:

21 (i) For a member in Group I or I-A who becomes a
22 member of the system prior to October 1, 2005, and does not
23 elect to participate prospectively as if he became a member on
24 or after October 1, 2005, the age at which he completes 20
25 years of creditable service or age 65, whichever occurs first.

1 (ii) For a member in Group II who becomes a member
2 of the system prior to October 1, 2005, and does not elect to
3 participate prospectively as if he became a member on or after
4 October 1, 2005, the age at which he completes 20 years of
5 creditable service or age 62, whichever occurs first.

6 (iii) For a member in Group I or I-A who becomes a
7 member of the system on or after October 1, 2005, or elects to
8 participate prospectively as if he became a member on or after
9 October 1, 2005, the age at which he completes 25 years of
10 creditable service or age 62, whichever occurs first.

11 (iv) For a member in Group II who becomes a member
12 of the system on or after October 1, 2005, or elects to
13 participate prospectively as if he became a member on or after
14 October 1, 2005, the age at which he completes 25 years of
15 creditable service or age 55, whichever occurs first. Any
16 member in service who has attained his minimum service
17 retirement age shall be retired by the board on a service
18 retirement allowance upon his written application setting
19 forth at what time not less than thirty nor more than 60 days
20 next following the execution and filing thereof, he desires to
21 be retired, notwithstanding that during such period of
22 notification he may have separated from service. Such member
23 shall be entitled to such retirement allowance whether he
24 voluntarily separates from service or is dismissed for cause
25 or for any other reason. In the event such member is dismissed

1 for cause or for any other reason, he shall be entitled to
2 make application for and receive the retirement allowance
3 hereinabove provided for upon his giving the written notice
4 herein mentioned.

5 (b) Any member in service in Groups I or I-A who has
6 attained age seventy-two shall be retired forthwith by the
7 board on a service retirement allowance; provided that upon
8 the request of his department head, approved by the council
9 and the board a member who has attained age seventy-two may be
10 permitted to continue in active service for a period of one
11 year as the result of each such request. However, in no event
12 shall any member be continued in active service after he has
13 attained age seventy-five, except that the compulsory
14 retirement age shall not be applicable to an official elected
15 by vote of the people or to non-merit system employees.
16 Notwithstanding an extension of a member's service after he
17 has attained age seventy-two, such a member shall be retired
18 by the board on a service retirement allowance upon his
19 written application setting forth at what time not less than
20 thirty nor more than 60 days next following the execution and
21 filing thereof he desires to be retired.

22 (c) Any member in service in Group II who has
23 attained age sixty-two shall be retired forthwith by the board
24 on a service retirement allowance; provided that upon the
25 request of his department head, approved by the council and

1 the board, a member who has attained age sixty-two may be
2 permitted to continue in active service for a period of one
3 year as the result of each such request. However, in no event
4 shall any member be continued in active service after he has
5 attained age sixty-five, except that the compulsory retirement
6 age shall not be applicable to an official elected by vote of
7 the people. Notwithstanding an extension of a member's service
8 after he has attained age sixty-two, such a member shall be
9 retired by the board on a service retirement allowance upon
10 his written application setting forth at what time not less
11 than thirty (30) nor more than sixty (60) days next following
12 the execution and filing thereof he desires to be retired.

13 (d) The service retirement allowance of a member in
14 Group I or I-A shall be as follows:

15 (i) For a member who becomes a member of the system
16 prior to October 1, 2005, and does not elect to participate
17 prospectively as if he became a member on or after October 1,
18 2005, 2% of his average final compensation multiplied by the
19 number of years of his creditable service not in excess of 20
20 plus 1% of such compensation for each year of creditable
21 service in excess of 20 years, subject to a maximum of 60% of
22 average final compensation.

23 (ii) For a member who becomes a member of the system
24 on or after October 1, 2005, or elects to participate
25 prospectively as if he became a member on or after October 1,

1 2005, 2% of his average annual final compensation multiplied
2 by the number of years of creditable service, subject to a
3 maximum of 100% of average final compensation.

4 (e) The service retirement allowance of a member in
5 Group II shall be as follows:

6 (i) For a member who becomes a member of the system
7 prior to October 1, 2005, and does not elect to participate
8 prospectively as if he became a member on or after October 1,
9 2005, 2 1/2% of his average final compensation multiplied by
10 the number of years of his creditable service not in excess of
11 20 years plus 1% of such compensation for each year of
12 creditable service in excess of 20 years, subject to a maximum
13 of 60% of average final compensation.

14 (ii) For a member who becomes a member of the system
15 on or after October 1, 2005, or elects to participate
16 prospectively as if he became a member on or after October 1,
17 2005, 2 1/2% of his average final compensation multiplied by
18 the number of years of creditable service, subject to a
19 maximum of 100% of average final compensation.

20 (f) Participants who are members of the system prior
21 to October 1, 2005, shall be entitled to elect to have their
22 current service retirement allowance frozen and participate
23 prospectively in the new program offered to employees who
24 become members on or after October 1, 2005, provided they have
25 three or more years remaining until they attain the mandatory

1 retirement age for employees who become members on or after
2 October 1, 2005. Members desiring to make such election must
3 file with the board a written election on forms, and pursuant
4 to such rules and regulations, as the board shall promulgate.
5 In order for such election to be effective, it must be filed
6 with the board not later than September 30, 2005, or within
7 thirty (30) days following their effective date of employment,
8 whichever date is later. Members so electing shall earn
9 benefits prospectively for creditable service completed on and
10 after October 1, 2005, or the first day of the next month
11 following the filing of their election, whichever date is
12 later, on the same basis as employees who become members on or
13 after that date; and, for creditable service completed prior
14 to October 1, 2005, or prior to the first day of the next
15 month following the filing of their election, as the case may
16 be, such electing member shall be entitled at retirement to
17 such benefits for such creditable service based on the
18 retirement allowance formula provided for employees who became
19 members prior to October 1, 2005, and did not elect to
20 participate in the new system.

21 (g) Any employee who became a member prior to
22 October 1, 2005, and did not elect to participate
23 prospectively in the retirement system as if he were a
24 post-October 1, 2005 employee, upon the attainment of 25 years
25 of creditable service may elect, during the three-month period

1 immediately next following the attainment of 25 years of
2 creditable service, to participate in the retirement system
3 thereafter and prospectively on the same basis as a
4 post-October 1, 2005 employee. Members desiring to so elect
5 must file with the board a written election on forms, and
6 pursuant to rules and regulations, adopted by the board, prior
7 to the expiration of the three-month period next following the
8 member's attainment of 25 years of creditable service. Members
9 who so elect shall be entitled at retirement to a retirement
10 allowance for each year of creditable service in excess of 25
11 based on the benefit formula applicable to post-October 1,
12 2005 employees. The retirement allowance for each year of the
13 initial 25 years of creditable service shall be based on the
14 benefit formula applicable to pre-October 1, 2005 employees.
15 Otherwise, an electing member shall thereafter participate in
16 the retirement system on the same basis as if the member were
17 a post-October 1, 2005 employee.

18 (1.1) Spousal Benefit

19 (a) If any active member, who last became a member
20 prior to October 1, 2005, and who has not made an election to
21 participate in the system prospectively on the basis of an
22 employee who becomes a member on or after October 1, 2005, and
23 has been credited with 20 or more years of creditable service
24 should die, his surviving spouse, as hereinafter defined,

1 shall be entitled to a death benefit, provided the spouse is
2 the designated beneficiary.

3 (b) If any active member, who last became a member
4 on or after October 1, 2005, or, who has made an election to
5 participate in the system prospectively, on the basis of an
6 employee who becomes a member on or after October 1, 2005, and
7 has been credited with 25 or more years of creditable service
8 should die, his surviving spouse, as hereinafter defined,
9 shall be entitled to a death benefit, provided the spouse is
10 the designated beneficiary.

11 (c) Surviving Spouse as used in this subsection
12 shall mean the legally married spouse of the member on the
13 date of his death.

14 (d) No death benefit shall be payable if the
15 deceased member is not survived by a spouse or the surviving
16 spouse is not the designated beneficiary.

17 (e) Such death benefit shall be a monthly income,
18 payable for the life of the surviving spouse equal to the
19 allowance that would have been payable to the member's
20 surviving spouse if he had retired on the day immediately
21 preceding his death, selected the 50% survivorship option, and
22 designated his surviving spouse as beneficiary.

23 (f) Notwithstanding the above, and in lieu of the
24 above, the surviving spouse may elect to receive a lump sum

1 payment equal to the member's contributions at the date of his
2 death.

3 (2) Disability Retirement Allowance

4 (a) Any member in service who has had 5 years or
5 more of creditable service may be retired for disability upon
6 application of such member to the board and upon
7 recommendation of the head of the division in which the member
8 is employed, provided he meets the following requirements:

9 (i) The Medical Board after medical examination of
10 such member shall certify that he is mentally or physically
11 incapacitated for the further performance of duty; that such
12 incapacity is likely to be permanent; and that the member
13 should be retired for physical or mental disability.

14 (ii) The disability did not result from service in
15 the armed forces of the United States, chronic alcoholism,
16 addiction to narcotics, intentionally self-inflicted injuries,
17 or injuries received while committing a felony.

18 (iii) Except for temporary and/or partial disability
19 workers' compensation benefits, medical payments and
20 educational or training benefits, he is not receiving and has
21 not received any payments for such disability from the city
22 under workers' compensation or any other type of
23 employer-provided payment for disability payable from the
24 participating employer's general or self-insured funds;
25 provided, however, that in the event such employee is entitled

1 to any other such benefits from the city or any of its boards
2 he may elect by filing with the board up to the time of the
3 commencement of such benefits, his choice of the two benefits.
4 In the event he chooses not to accept benefits under the
5 system he shall withdraw his accumulated contributions in a
6 lump sum.

7 (b) The disability retirement allowance shall be
8 computed as a service retirement allowance on the basis of his
9 average final compensation and creditable service at
10 disability retirement.

11 (c) Should a member with 5 or more years of
12 creditable service become disabled under circumstances which
13 fail to meet the requirements set forth in (i), (ii), and
14 (iii) of subsection (2) (a) above, he may elect in lieu of a
15 return of his accumulated contributions as provided under
16 subsection (4) (a) of this section, to receive a deferred
17 retirement allowance commencing at such time as he would be
18 eligible to receive a service retirement allowance.

19 (d) No member shall be entitled to a disability
20 retirement allowance unless he meets the requirements of (i),
21 (ii), and (iii) of subsection 2, regardless of whether such
22 member is eligible for benefits for total (100%) disability
23 under the federal system guidelines.

24 (3) Vesting Retirement Allowance

1 (a) Should any member be or have been involuntarily
2 separated from service for any cause other than fault or
3 delinquency on his part after having completed ten or more
4 years of creditable service, he may elect in lieu of a return
5 of his accumulated contributions as provided under subsection
6 (4)(a) of this section, to receive a deferred retirement
7 allowance commencing twenty years or twenty-five years, as
8 applicable pursuant to Section 6(1), from the beginning of
9 creditable service with the city or age 50, whichever occurs
10 first. Failure of reelection of a member elected by vote of
11 the people shall not be construed as fault or delinquency on
12 the part of such member.

13 (b) Anything herein to the contrary notwithstanding,
14 any member separating from service after having completed ten
15 or more years of creditable service, may elect in lieu of a
16 return of his accumulated contributions as provided under
17 subsection 4(a) of Section 6, to receive a deferred retirement
18 allowance commencing as follows:

19 (i) For a member in Group I or I-A who becomes a
20 member prior to October 1, 2005, and does not elect to
21 participate prospectively as if he became a member on or after
22 October 1, 2005, at the age of 65.

23 (ii) For a member in Group II who becomes a member
24 prior to October 1, 2005, and does not elect to participate

1 prospectively as if he became a member on or after October 1,
2 2005, at the age of 62.

3 (iii) For a member in Group I or I-A who becomes a
4 member on or after October 1, 2005, or who elects to
5 participate prospectively as if he became a member on or after
6 October 1, 2005, at the age of 62.

7 (iv) For a member in Group II who becomes a member
8 on or after October 1, 2005, or who elects to participate
9 prospectively as if he became a member on or after October 1,
10 2005, at the age of 55.

11 Any member who separates from service without
12 completing ten years of creditable service or qualifying for a
13 disability retirement allowance shall not receive any vesting
14 retirement allowance and shall only be entitled to receive the
15 amount of his accumulated contributions under the provisions
16 of subsection (4) (b) of Section 6.

17 (c) The vesting retirement allowance shall be
18 computed as a service retirement allowance on the basis of the
19 members' average final compensation and creditable service at
20 the time of separation from service.

21 (d) Notwithstanding the foregoing the member may at
22 any time prior to the commencement of his vesting retirement
23 allowance revoke such election and receive in lieu of all
24 benefits the amount of his accumulated contributions. In the
25 event of the death prior to the commencement of the vesting

1 retirement allowance of a member who has made the election
2 provided for herein, the amount of his accumulated
3 contributions shall be paid under the provisions of subsection
4 (4) (b) of this section in lieu of any other benefit provided
5 for in this section.

6 (4) Return of Contributions

7 (a) Should a member cease to be an employee for any
8 reason and not be awarded a retirement allowance, he shall be
9 paid on demand his accumulated contributions.

10 (b) Upon the receipt of proof, satisfactory to the
11 board, of the death of a member and that such member's
12 beneficiary is not eligible for a spousal benefit under
13 Section 6 subsection (1.1), his accumulated contributions
14 shall be paid to such person, if any, as he shall have
15 nominated by written designation duly acknowledged and filed
16 with the board if such person survives him, otherwise to the
17 estate of the member.

18 (5) Re-Examination of Beneficiaries Retired on
19 Account of Disability

20 (a) The board may at any time and as often as it
21 sees fit, not in excess of once in each 12 months, require any
22 beneficiary receiving a retirement allowance due to a
23 disability to undergo a medical examination if he has not yet
24 attained his minimum service retirement age, such examination
25 to be made at the place of residence of such beneficiary, the

1 office of a physician selected by the board, or other place
2 mutually agreed upon. Should such beneficiary refuse to submit
3 to such medical examination his retirement allowance may be
4 discontinued by the board until his withdrawal of such
5 refusal, and should his refusal continue for over one year,
6 all his rights in and to that portion of his retirement
7 allowance which is provided by the contributions of the city
8 may be revoked by the board.

9 (b) In the event a member who is receiving a
10 retirement allowance due to a disability secures gainful
11 employment, including employment with the city, paying more
12 than the difference between his retirement allowance and his
13 average final compensation, the amount of his retirement
14 allowance shall be reduced to an amount which, together with
15 the amount earnable by him, shall equal the amount of his
16 average final compensation but, in no event, to an amount less
17 than the portion of his allowance provided by his accumulated
18 contributions. Should his earning capacity be later changed,
19 the amount of his retirement allowance may be further modified
20 in like manner. Any member receiving a retirement allowance
21 due to a disability shall advise the board of any gainful
22 employment. The board may make such investigation at any time
23 in reference to any gainful employment of any retired member,
24 up to the time he attains his minimum service retirement age,
25 and such member shall answer any question and furnish

1 information, including copies of federal income tax returns,
2 as the board may require. In the event that the member fails
3 or refuses to comply with the board's request, then his
4 retirement allowance may be discontinued by the board until
5 his withdrawal of such refusal, and should his refusal
6 continue for over one year, all his rights in and to that
7 portion of his retirement allowance which is provided by the
8 contributions of the city may be revoked by the board.

9 (6) Restoration of Beneficiaries to Membership

10 Should a member receiving a retirement allowance due
11 to a disability be restored to or be in service at a
12 compensation equal to or greater than his average final
13 compensation at retirement, or should any other beneficiary be
14 restored to service, his retirement allowance shall cease, any
15 election of an optional benefit shall become void, he shall
16 again become a member of the system and shall contribute
17 thereafter at the then prevailing rate. An amount equal to the
18 actuarial reserve held for the part of his retirement
19 allowance provided by his contributions shall be credited to
20 him as accumulated contributions. Any creditable service to
21 which he was entitled when he retired shall be restored to
22 him, and upon subsequent retirement his retirement allowance
23 shall be based on his compensation and creditable service
24 before and after the period of prior retirement; provided that
25 if he does not complete three years of creditable service

1 after his restoration to service, the part of his retirement
2 allowance upon subsequent retirement payable with respect to
3 creditable service rendered before the period of his previous
4 retirement shall be equal to his previous retirement allowance
5 with all of the provisions of any option restored, if one was
6 elected, with respect to such part of his retirement
7 allowance.

8 (7) Optional Allowances

9 Until the date of his retirement and, in the case of
10 a member eligible for a vesting retirement allowance, the date
11 as of which such allowance is to commence, any member may
12 elect to convert the retirement allowance otherwise payable to
13 him into a modified retirement allowance of equivalent
14 actuarial value in accordance with one of the optional forms
15 named below. Such election shall become effective on the
16 member's retirement date or the date as of which his vesting
17 retirement allowance is to commence, as the case may be.

18 Option 1. A reduced retirement allowance payable
19 during the life of the retired member, with the provision that
20 if he dies before he has received in payments of his allowance
21 the amount of his accumulated contributions at the time of his
22 retirement, the balance of such amount shall be paid to such
23 person, if any, as he shall have nominated by written
24 designation duly acknowledged and filed with the board if such

1 person survives him, otherwise to the retired member's estate;
2 or

3 Option 2. A reduced retirement allowance payable
4 during the life of the retired member, with the provision that
5 upon his death his reduced retirement allowance shall be
6 continued throughout the life of and paid to such person as he
7 shall have nominated by written designation duly acknowledged
8 and filed with the board at the time of retirement; or

9 Option 3. A reduced retirement allowance payable
10 during the life of the retired member, with the provision that
11 upon his death one-half of his reduced retirement allowance
12 shall be continued throughout the life of and paid to such
13 person as he shall have nominated by written designation duly
14 acknowledged and filed with the board at the time of
15 retirement; or

16 Option 4. A reduced retirement allowance payable
17 during the life of the retired member, with the provision that
18 upon his death some other benefit shall be payable, provided
19 that the total value of the allowance during his life and the
20 succeeding benefit shall be computed to be of equivalent
21 actuarial value to the retirement allowance which he would
22 receive without optional modification and provided that the
23 benefit shall be approved by the board.

24 (7.1) Anything herein to the contrary
25 notwithstanding, a member may elect to convert the retirement

1 allowance otherwise payable to him into a modified retirement
2 allowance of equivalent actuarial value in accordance with one
3 of the optional forms named in subsection 7 of Section 6 of
4 this act.

5 Whenever any member has elected an optional
6 allowance and has nominated his spouse to receive all amounts
7 and benefits payable on or after such member's death as a
8 result of such election, the member may revoke the election
9 any time after the death of such spouse or the entry of a
10 final judgment and complete divorce from the spouse so
11 nominated. Upon any such revocation the member shall return to
12 the single lifetime only retirement allowance otherwise
13 payable to him. Such revocation shall be effective on the
14 first day of the month following the month in which the
15 revocation is filed with the board and once filed shall be
16 final and irrevocable. Beneficiary elections and changes to
17 such election, if allowed by the board, shall be made in
18 accordance with the policies and procedures established by the
19 board.

20 (8) Preservation of Benefits Accrued Under the
21 System Prior Hereto

22 Anything herein contained to the contrary
23 notwithstanding, the retirement allowance payable under the
24 system to a member immediately prior to the effective date of
25 this act, who continued without a break in membership to his

1 retirement date or termination of employment entitling him to
2 a benefit hereunder, shall not be less than the benefit which
3 would otherwise be payable to him under the system as in
4 effect prior to the effective date of this act, based on his
5 creditable service to and his compensation earned prior to
6 paid date.

7 (9) The payment of benefits shall begin not later
8 than the 60th day after the close of the calendar year in
9 which the latest of the following events occur: (a) the date
10 on which the former employee attains the earlier age of 65 or
11 his minimum service retirement age specified in the act; (b)
12 the 10th anniversary of the year in which the employee or
13 former employee became a member of the system; or (c) the date
14 the member employee's employment with the city is terminated.
15 All distributions will be determined and made in accordance
16 with Section 401(a)(9) of the Internal Revenue Code.

17 (10) The maximum amount payable to a member under
18 the system in any calendar year when expressed as a straight
19 life annuity commencing at normal retirement age shall be
20 \$160,000.00. The dollar limitations shall be adjusted annually
21 as provided in Section 415(d) of the Internal Revenue Code
22 pursuant to the regulations, effective as of January 1 of each
23 calendar year. The limitations, adjustments, definitions,
24 special rules, and other requirements prescribed by this act
25 shall at all times comply with the provisions of Section 415

1 of the Internal Revenue Code and the regulations thereunder as
2 applicable to government plans, the terms of which are
3 specifically incorporated herein by reference.

4 Section 7. Method of Financing.

5 All of the assets of the system shall be credited,
6 according to the purpose for which they are held, among three
7 accounts, namely, the Members' Account, the Accumulation
8 Account and the Expenses Account.

9 (1) Members' Account.

10 (a) The Members' Account shall be the account in
11 which shall be held the accumulated contributions of members.

12 (b) The board shall cause to be deducted from the
13 compensation of each member on each and every payroll for each
14 and every payroll period 6% of his earnable compensation. In
15 determining the amount earnable by a member in a payroll
16 period, the board may consider the rate of compensation
17 payable to such member on the first day of a payroll period as
18 continuing throughout the payroll period, and it may omit
19 deduction from compensation of any period less than a full
20 payroll period.

21 (c) The deductions provided for herein shall be made
22 notwithstanding that the minimum compensation provided by law
23 for any member shall be reduced thereby. Every member shall be
24 deemed to consent and agree to the deductions made and
25 provided for herein and shall receipt for his full salary or

1 compensation, and payment of salary or compensation less said
2 deduction shall be a full and complete discharge and
3 acquittance of all claims and demands whatsoever for the
4 services rendered by such person during the period covered by
5 such payment, except as to the benefits provided under this
6 act.

7 (d) The proper authority or officer responsible for
8 making up the payroll shall certify to the board the amounts
9 deducted on each and every payroll, and each of such amounts
10 shall be paid into the Members' Account and credited to the
11 individual account of the member from whose compensation the
12 deduction was made.

13 (e) The accumulated contributions of a member paid
14 upon his death or withdrawn by him, as provided in this act,
15 shall be paid from the Members' Account. Upon the retirement
16 of a member, his accumulated contributions shall be
17 transferred from the Members' Account to the Accumulation
18 Account.

19 (2) Accumulation Account.

20 (a) The Accumulation Account shall be the account in
21 which shall be accumulated all contributions made by the city
22 to provide benefits under the system and from which shall be
23 paid all retirement allowances and other benefits under the
24 system, other than those payable from the Members' Account.

25 Regular Contributions by the City

1 (b) On account of each member there shall be paid
2 annually into the Accumulation Account a certain percentage of
3 the compensation of each member to be known as the normal
4 contribution, and an additional percentage of his compensation
5 to be known as the accrued liability contribution. The rates
6 per centum of such contribution shall be fixed on the basis of
7 the liabilities of the system as shown by actuarial valuation.

8 (c) The normal rates of contribution shall be
9 determined after each actuarial valuation. During the period
10 over which the accrued liability contributions are payable,
11 the normal rates of contribution shall be determined, on the
12 basis of regular interest and the tables last adopted by the
13 board, as the uniform and constant percentages of the
14 compensation of the average new entrant Group I and Group I-A,
15 or Group II member, as the case may be, which, if contributed
16 on the basis of the prospective compensation of such new
17 entrant throughout his entire period of active service, would
18 be sufficient to provide for the payment of the portion of any
19 retirement allowance or other benefit payable on his account
20 not provided by his own contributions. After the accrued
21 liability contributions have ceased to be payable, the normal
22 contribution rate shall be the rate per centum of the
23 compensation of all members obtained by deducting from the
24 total liabilities of the Accumulation Account the amount of
25 the funds in hand standing to the credit of the Accumulation

1 Account, and dividing the remainder by one per centum of the
2 present value of the future compensations of all members, as
3 computed at regular interest on the basis of the tables last
4 adopted by the board.

5 (d) The accrued liability contribution rates shall
6 be computed as the rate per centum of the total annual
7 compensation of all Group I and Group I-A, or Group II
8 members, as the case may be, which is equivalent to 4 3/4% of
9 the amount of the total liabilities of the Accumulation
10 Account on account of such members and their beneficiaries in
11 excess of the funds in hand held on their account in the
12 Accumulation Account, which is not dischargeable by the
13 aforesaid normal contributions made on account of such members
14 during the remainder of their active service.

15 (e) The total amount payable by the city in each
16 year to the Accumulation Account shall be not less than the
17 sum of the rates per centum known as the normal contribution
18 rate and the accrued liability contribution rate, of the total
19 compensation of all members in Group I, I-A, and in Group II,
20 respectively, during the preceding year; provided, however,
21 that the amount of each annual accrued liability contribution
22 shall be at least 3% greater than the preceding annual accrued
23 liability contributions, and that the aggregate payment shall
24 be sufficient, when combined with the amount in the account,
25 to provide the retirement allowances and other benefits

1 payable to members and beneficiaries during the year then
2 current.

3 (f) The accrued liability contributions shall be
4 discontinued as soon as the amount of the funds standing to
5 the credit of the Accumulation Account shall equal the present
6 value, as actuarially computed and approved by the board, of
7 the total liabilities of the account on account of all members
8 and beneficiaries less the present value of the normal
9 contributions to be received at the normal rates then in force
10 on account of persons who are at that time members.

11 Interest

12 (g) All interest and dividends earned on the funds
13 of the system shall be credited to the Accumulation Account.

14 (h) Regular interest shall mean interest at the per
15 centum rate or rates compounded annually as shall be
16 determined by the board from time to time.

17 Benefits payable from Accumulation Account

18 (i) All retirement allowances to beneficiaries, and
19 benefits in lieu thereof, shall be paid from the Accumulation
20 Account.

21 (3) Expense Account

22 The Expense Account shall be the account from which
23 shall be paid all the expenses necessary in connection with
24 the administration and operation of the system. Persons
25 assigned to and working for the Retirement System shall be

1 employees of the City of Montgomery, and their salaries and
2 other accrued benefits for such employees shall be paid
3 proportionately by the City of Montgomery, and the City of
4 Montgomery Airport Authority, based upon each organization's
5 relative percentage of covered member payroll. All other
6 expenses and costs incurred in connection with the
7 administration and operation of the retirement system,
8 including, but not limited to, the fees and costs paid to the
9 retirement system's investment trustees and advisors, shall be
10 the sole responsibility of, and shall be paid by, the
11 retirement system itself from its investment income.

12 (4) Appropriations

13 On or before the first day of June of each year the
14 board shall file with the council its certification of the
15 amount of the appropriation necessary to pay the normal and
16 accrued liability contributions to the retirement fund for the
17 ensuing year, and the amount of appropriation required to
18 cover the expenses necessary in connection with the
19 administration and operation of the system, and such amounts
20 shall be included in the budget, in accordance with legal
21 budget procedure.

22 (5) Member Contributions

23 (a) Contributions which the board causes pursuant to
24 Section 7(1) to be deducted from the compensation of each
25 member employee and contributed to the member's account under

1 the act shall be treated for purposes of Section 414(h) (2) of
2 the Internal Revenue Code as being paid by the city in lieu of
3 contributions by any such member employee.

4 (b) The member employee contributions which are
5 picked up will continue to be designated employee compensation
6 for determining the amount of the contribution to be so picked
7 up; the total amount of the contribution of each member
8 employee to the Employees' Retirement System of the City of
9 Montgomery shall not be reduced by this section; the amount of
10 the retirement allowance of each member shall not be affected
11 by this section, no other changes in the method of computation
12 and transmittal of these picked up employee contributions
13 shall be affected by this section; and the total amount paid
14 to and on behalf of each member employee will not be increased
15 or decreased by this section.

16 (c) The procedure whereby the member employees
17 contribution to the Employees' Retirement System of the City
18 of Montgomery is picked up shall apply equally to each and
19 every such employee who participates in the Employees'
20 Retirement System of the City of Montgomery; no employee shall
21 be given any option concerning this pick up; and this
22 procedure of pick up shall be mandatory on all member
23 employees.

24 (d) Forfeitures, if any, arising from severance of
25 employment, death, or for any other reason, may not be used to

1 increase benefits for employee members or their beneficiaries
2 who would otherwise receive under the Employees' Retirement
3 System of the City of Montgomery at any time prior to
4 termination of the Employees' Retirement System of the City of
5 Montgomery or the complete discontinuance of city
6 contributions. Forfeitures, if any, are to be used as soon as
7 possible to reduce subsequent city contributions.

8 Section 8. Management of Funds.

9 (1) Investments shall be managed by the investment
10 trustee. The board shall otherwise manage the system.

11 (2) The board shall designate one of its members,
12 with an appropriate bond, or a bank or trust company, to be
13 the custodian of the funds of the system other than those in
14 the possession of the investment trustee. All payments from
15 such funds of the system shall be made only upon regular
16 vouchers signed by two persons designated by the board, each
17 of whom shall be bonded. A duly attested copy of a resolution
18 of the board designating such persons and bearing upon its
19 face specimen signatures of such persons shall be filed with
20 the custodian as his authority for making payments upon such
21 vouchers. No voucher shall be drawn unless it shall have been
22 previously authorized by resolution of the board. All persons
23 authorized to sign such vouchers shall be bonded in an amount
24 or amounts established by the board from time to time and

1 commensurate with the applicable fiscal responsibilities and
2 risks.

3 (3) For the purpose of meeting disbursements for
4 retirement allowances and other payments there shall be kept
5 on deposit available cash in an amount to be determined from
6 time to time by the board. The board shall notify the
7 investment trustee in writing of the amount determined by the
8 board to be desirable. No voucher shall be drawn unless it
9 shall have been previously authorized by resolution of the
10 board.

11 (4) Except as otherwise herein provided, no member
12 nor employee of the board, the City of Montgomery Airport
13 Authority, or of the City of Montgomery, shall have any direct
14 or indirect interest in the gains or profits of any investment
15 made by the board or the investment trustee, nor as a member
16 of the board receive any pay or emolument for his services. No
17 member nor employee of the board shall, directly or
18 indirectly, for himself or as an agent in any manner use the
19 same, except to make such current and necessary payments as
20 are authorized by the board.

21 (5) The board shall cause the accounts and
22 operations of the retirement system to be audited by an
23 independent outside auditor annually, and, an audit of its
24 management practices and procedures every three years, or more
25 often if necessary to maintain security and efficiency.

1 Section 9. Member To Elect Between Service
2 Retirement and Other City Payments.

3 Anything in this act to the contrary
4 notwithstanding, any person who is entitled to receive
5 benefits directly from the city or from the funds of the city
6 or from any board or commission connected with the city, for
7 any disability, shall elect on forms, and in accordance with
8 rules and regulations, adopted by the board between those
9 benefits and the service retirement benefits under this
10 system. In the event such person does not elect to receive a
11 service retirement benefit, then he shall receive no service
12 retirement benefits but shall be entitled to a return of his
13 accumulated contributions.

14 Section 10. Return of Contributions.

15 Wherever in this act provision is made for return of
16 contributions of a member, such return shall be made without
17 payment of interest for the period subsequent to December 31,
18 1968 or the return of interest paid by such member when
19 purchasing past service.

20 Section 11. Assignments Prohibited.

21 The property and funds of the system, the
22 contributions of members deducted from their compensation, the
23 right of a person to a retirement allowance or other benefit,
24 and any other right accrued or accruing to any person under
25 the provisions of this act and the moneys in the accounts

1 created by this act shall not be subject to taxation by the
2 city nor by the State of Alabama, nor be subject to execution,
3 garnishment, attachment, the operation of bankruptcy or
4 insolvency law or any other process of law whatsoever to
5 satisfy any debt or liability of any member, and shall be
6 unassignable except as in this act specifically provided.

7 Section 12. Protection Against Fraud.

8 Whoever with intent to deceive shall make any
9 statements or reports required under this act which are
10 untrue, or shall falsify or permit to be falsified any record
11 or records of this system shall be fined not to exceed one
12 thousand dollars, or imprisoned not to exceed six months, or
13 both.

14 Section 13. Errors.

15 Should any change or error in the records result in
16 any member or beneficiary receiving from the system more or
17 less than he would have been entitled to receive had the
18 records been correct, the board shall have the power to
19 correct such error, and as far as practicable, to adjust the
20 payments in such manner that benefits of equivalent actuarial
21 value to the benefit to which such member or beneficiary was
22 correctly entitled shall be paid.

23 Section 14. General Conditions.

24 (1) The board shall have the continuing right and
25 power to amend or supplement this act at any time, which right

1 and power is hereby expressly reserved, but no amendment shall
2 be adopted which will reduce the then accrued benefits of
3 employees or beneficiaries below the extent they are then
4 covered by accumulated reserves, which reserves shall
5 constitute a trust fund for the payment of such benefits,
6 except that any amendment or supplement which would result in
7 additional contributions by the City shall be approved by the
8 board, the City Council, and the governing body of such
9 participating employer. At least every two years, the board
10 will review the retirement allowances being paid to
11 beneficiaries and make a determination as to whether or not to
12 recommend a cost-of-living adjustment to the Mayor and the
13 City Council.

14 (2) All provisions of any act inconsistent with the
15 provisions of this act are hereby repealed to the extent of
16 such inconsistency.

17 (3) If any section or part of any section of this
18 act is declared to be unconstitutional, the remainder of the
19 act shall not thereby be invalidated.

20 (4) No amendment or supplement to the Plan shall be
21 effective if it authorizes or permits any part of the Trust
22 Fund, other than such part as is required to pay
23 administrative expenses and taxes if any, to be used for or
24 diverted to any purpose other than for the exclusive benefit
25 of member employees or their beneficiaries or estates, or

1 causes any reduction in the then accrued benefits of member
2 employees of their beneficiaries below the extent they are
3 then covered by accumulated reserves.

4 Section 15. Employee Retention Incentive Program
5 ("ERIP").

6 (1) Effective January 1, 2005, a Member who is
7 actively employed may make an election to participate in the
8 ERIP option. Such election shall be made during the period of
9 thirty (30) to sixty (60) days prior to the Member's actual
10 retirement date. A Member electing the ERIP option shall
11 specify the ERIP Election Period.

12 (2) A Member who has elected the ERIP option shall
13 receive the following benefits:

14 (a) A Retirement Allowance as if such Member had
15 actually retired on the ERIP Calculation Date, based on
16 Creditable service and Average final compensation on such
17 date; and

18 (b) A lump sum payment calculated based upon the
19 Retirement Allowance calculated in (a) above multiplied by the
20 number of months in the ERIP Election Period plus annual com-
21 pound interest at the rate of 5%. The following factors shall
22 be multiplied by the Retirement Allowance to determine the
23 lump sum payment:

1	ERIP Election Period	Factor
2	12 months	12.3226
3	24 months	25.2613
4	36 months	38.8469

5 (3) The lump sum benefit calculated pursuant to (2)
6 above shall be paid to the Member as promptly as
7 administratively practicable following such Member's actual
8 retirement date.

9 (4) A Member who has previously elected the ERIP
10 option and received a lump sum payment hereunder and who is
11 rehired as an Employee on or after January 1, 2008 shall be
12 subject to the following rules:

13 (a) In the event the Member repays the lump sum plus
14 annual compound interest at the rate of seven percent (7%)
15 within thirty (30) days of his rehire date, the prior election
16 of the ERIP option shall be disregarded for all purposes. As
17 of such Member's subsequent retirement date, such Member may
18 again elect the ERIP option, subject to the rules set forth
19 above. In determining the Member's Retirement Allowance at
20 such subsequent retirement, all Creditable service, including
21 the prior ERIP Election Period shall be taken into account,
22 but excluding service in any subsequent ERIP Election Period.

1 (b) In the event the Member does not repay the lump
2 sum plus annual compound interest at the rate of seven percent
3 (7%) within thirty (30) days of his rehire date and the period
4 of Creditable service following such Member's rehire date is
5 longer than the initial ERIP Election Period, such Member's
6 Retirement Allowance as of his subsequent retirement date
7 shall be based upon all Creditable service excluding the
8 original ERIP Election Period.

9 (c) In the event the Member does not repay the lump
10 sum plus annual compound interest at the rate of seven percent
11 (7%) within thirty (30) days of his rehire date and the period
12 of Creditable service following such Member's rehire date is
13 less than the initial ERIP Election Period, such Member's
14 Retirement Allowance as of his subsequent retirement date
15 shall be based upon all Creditable service including the
16 original ERIP Election Period and reduced by the actuarial
17 equivalent of the lump sum payment received as a result of
18 electing the original ERIP option. For purposes of determining
19 actuarial equivalence, the interest rate shall be seven
20 percent (7%) and the Member's life expectancy shall be based
21 upon the Static 1994 Group Annuity Mortality Table.

22 (5) The Board may suspend or eliminate the ERIP
23 program at any time, other than with respect to a Member who
24 has made an ERIP election prior to the date of the suspension
25 or elimination of the ERIP program. Notwithstanding the

1 foregoing, the provisions of paragraph (4) of this Section 15
2 shall continue in effect following such suspension or
3 elimination.

4 Section 16. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 16-APR-09.

Greg Pappas
Clerk

Senate	30-APR-09	Amended and Passed
House	30-APR-09	Concurred in Senate Amendment

APPROVED May 13, 2009
TIME 8:50 a.m.
Bob Riley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2009-473
Bill Num....: H-323

Recv'd 05/13/09 02:44pmJJB